Criminal Revision No. 82 of 2001

Hon'ble M.C.Jain,J

Heard the learned counsel for the applicant.

The applicant is the husband against whom the opposite party (his wife) filed an application under Section 125 Cr.P.C. for maintenance allowance as back as 1995. At long last, the said application was decided expert on 17.08.2000 as the applicant absented. Certain maintenance allowance was granted to the wife under this order. The applicant made a restoration application the very next day, which is indicative of the fact that he was watching the proceedings from outside and he jumped up to avail of his remedy of restoration the very next date. The said application for restoration is still pending. As the wife applied for execution of the maintenance order, the court issued a recovery on 11.04.2001. The applicant has file aggrieved by this order and has filed this revision.

The argument of the learned counsel for the revisionist is that the restoration application being pending, the recovery should not have been issued.

To balance the rights of the parties, it is provided that in case applicant deposits a seem at Rs. 25,000.00 (Rs. Twenty five thousand) towards the maintenance allowance payable to his wife in the Court at the Magistrate concerned within fifteen days from today, the recovery order dated 11th April 2001 shall not take effect, and the Magistrate concerned shall decide the restoration application on merits within one month thereafter. The sum of Rs. 25,000/- shall remain in deposit with the Magistrate till the final decision of

the application for maintenance allowance, subsequent to the restoration if it takes place.

The revision is decided accordingly.

(M.C. Jain, J.)

15/5/2001